TO: Boards of Assessors

FROM: Marilyn H. Browne, Chief, Bureau of Local Assessment

DATE: May 15, 2007

TOPIC: CERTIFIED TELEPHONE & TELEGRAPH VALUATIONS FOR FISCAL YEAR 2008

The Commissioner of Revenue has determined and does hereby certify the full and fair cash valuation of telephone and telegraph machinery, poles, wires and underground conduits, wires and pipes of the centrally valued telephone and telegraph companies, as of January 1, 2007. These valuations are certified for fiscal year 2008 under the authority of M.G. L. c. 59 §39. The property owner or the board of assessors must make appeal of the valuations to the Appellate Tax Board on or before June 15, 2007.

Telephone and telegraph **corporations** have been valued only on poles and wires over private property, underground conduits, wires and pipes in public or private property, and electric generators. M.G.L. c. 59, §39; M.G.L. c. 59, §5, cl. 16(1); & M.G.L. c. 59, §18(5). **Partnerships, trusts and LLCs** have been valued by the Commissioner on all poles, wires, underground conduits, wires and pipes situated in the Commonwealth (including poles and wires over public ways), and all machinery used to provide telephone or telegraph service (including switching and routing equipment). M.G.L. c. 59, §39; M.G.L. c. 59, §18, First and Sixth & M.G.L. c. 59, §5, cl. 16(2). Additionally, these latter entities are subject to valuation and assessment locally on all other taxable personal property. Therefore, a Form of List (State Tax Form 2) must be filed in all communities where such other personal property is located. (See the posted list of *Centrally Valued* telephone companies to identify these companies.)

With respect to **local filing requirements**, telephone and telegraph companies organized as LLCs that elect to be treated as corporations for federal income tax purposes, and single member LLCs that elect to be treated as disregarded entities for federal income tax purposes, whose single members are S corporations, are treated as business corporations. M.G.L. c. 63, §30(1) & (2); Technical Information Release (TIR) 05-04. As such, except for the centrally valued telephone and telegraph property, they are taxable only on machinery used in the conduct of business. This may include dedicated cable TV and Internet access machinery of bundled carriers, but all property used for telephone service and also for cable TV and/or Internet access should have been reported centrally and valued as part of this certification. For other LLCs, partnerships and trusts, all non-telephone machinery, as well as furniture and effects, equipment and other non-machinery items will be subject to valuation and assessment locally.

The following describes changes we believe to be significant.

> *MCI Communications Services, Inc. and MCI Metro Access Transmission Services of Massachusetts, Inc. was* acquired by Verizon Communications, Inc. on January 6, 2006. There are some significant changes in value. Verizon informed us that in preparation for FY2008 return filing they reviewed network maps and used GIS technology to be as certain as possible about the location of the networks and mileage from community to community.

Cellular/Mobile Telecommunication Providers (Wireless)

On May 15, 2006 the Appellate Tax Board issued a Decision and Order in certain appeals filed by Bell Atlantic Mobile of Massachusetts Corporation, Ltd., successor to Bell Atlantic Mobile LLC, dba Verizon Wireless

("Bell Atlantic Mobile") and the Board of Assessors of the City of Newton. The Appellate Tax Board decided that Bell Atlantic Mobile, a wireless telecommunications carrier, was not a telephone or telegraph company subject to central valuation by the Commissioner of Revenue under M.G.L. c. 59, § 39 for fiscal year 2004. It also concluded that Bell Atlantic Mobile was not entitled to the machinery exemption available to corporate utility companies under M.G.L. c. 59, § 5, cl. 16(1)(d).

As a result, all wireless carriers now appear to be subject to local rather than central valuation of their taxable personal property. In addition, corporate wireless carriers seem to be taxable for all telecommunications machinery (machinery used in the conduct of business), not just electric generators (machinery used in manufacturing). A notice of appeal was filed by the company on April 27, 2007. The Commissioner of Revenue, in order to protect the interests of the cities and towns in the Commonwealth in the event the Board's rulings are not upheld, hereby issues centralized valuations of wireless carrier's personal property without regard to the corporate utility exemption. See TIR 06-19 at www.mass.gov in the Legal Library section.

Assessors choosing to value the wireless companies as non-telephone companies should reclassify all wireless companies to the 504 class. A Form of List and the methodology documenting the proposed valuation for each locally valued wireless carrier must be sent to the Bureau of Local Assessment for review during certification or when the community submits its new growth calculations.

This year many communities will see increases in taxable personalty of several companies due to changes in the treatment of wireless corporations. Also, two companies did not report their assets as required in Form 5941 and according to M.G.L. c. 59 § 42, the Commissioner estimated the value of the property of the companies according to his best information and belief. In the list that follows we have described the changes we believe to be significant.

1. *Bell Atlantic Mobile of Massachusetts Corporation, Ltd.* loss of the corporate utility exemption resulted in a significant increase in reported assets as well as new growth in most communities.

2. *Nextel Communications of the Mid-Atlantic, Inc.* (formerly Sprint Nextel) & *Omnipoint Communications, Inc.* loss of the corporate utility exemption resulted in a significant increase in reported assets as well as new growth in most communities.

3. *New Cingular Wireless, PCS, LLC* (AT&T Mobility, LLC) submitted a FY2008 Form 5941 return that did not reflect historical original cost numbers when compared with returns of prior years. The return was deemed insufficient pursuant to M.G.L. c. 59 § 41. Consequently, according to M.G.L. c. 59 § 42, the Commissioner estimated the value of the property of the company according to his best information and belief. This estimate of value was determined using the Fiscal Year 2007 return for all vintage assets. Assets installed in 2006 as noted on the Fiscal Year 2008 return were then added and used to determine new tax base growth. (Please note that we were unable to determine retirements due to the inadequacy of the FY2008 return.)

4. *Independent Wireless One, Corp.* (IWO) submitted a list of 10 communities in which it stated it has assets for FY2008 central valuation. It listed all assets in the *Circuit Equipment – Digital* category with installation dates of 2005 and 2006. (The Commissioner has been advised that this company was acquired by Sprint Nextel in October 2005.) The Commissioner did not receive a Form 5941 from the company last year and when asked for locally filed Forms of List for FY2007 we were told it also did not file locally last year. Sprint Nextel has indicated that it does not have an appraisal or other documents that show what the original cost of the assets are nor has it been able to relate specifically what the assets are. Consequently, the Commissioner determined IWO's return to be insufficient (M.G.L. c. 59 § 41) and has valued the company based on the best available data. The Commissioner has valued all assets as reported for FY2008 without any form of depreciation. Communities may determine it is in their best interests to do an on-site inspection of the property. Since the company asserts that it is a cellular/mobile

wireless carrier, this valuation is protective, and as discussed more fully above, the communities are not limited to using the Commissioner's value.

Centrally valued telephone company billing names and addresses as reported by the companies are posted on this website for your convenience. Also, we have provided a list of companies that filed state returns but were not centrally valued. These companies and all others not centrally valued should file and be valued locally. Questions regarding valuations may be directed to Walter Sandoval Dusza at 617-626-4087 or John Gillet at 617-626-3605.